

Statement of the
Darien Board of Finance

Adopted unanimously March 11, 2010

We the undersigned members of the Darien Board of Finance strongly support **House Bill #5425**, which seeks to ensure that the burden of proof in disputes between school districts and parents rests with the party requesting a hearing.

We believe that if enacted, this legislation will:

- **Correct a significant legal inconsistency.** The notion that the plaintiff bears the burden of proof is a time-honored and fundamental concept in our legal system. A recent U.S. Supreme decision (*Shaffer v. Weast*, 2005) affirmed this concept as it applies to disputes between schools and parents, and 48 states currently adhere to this standard.
- **Help stabilize special education costs.** The current approach, wherein the burden of proof rests with the school districts in special education hearings sought by parents, encourages a growth in special education services beyond a level that would be appropriate for a child. Free from the burden of proof obligation, parents with special needs children routinely appeal special education decisions irrespective of the quality of programs offered by the schools. Over time, school districts have been forced to ratchet up special education spending, an increasing portion of which is spent on legal and related expenses rather than programs. Due to budget constraints in these difficult times, many districts, ours included, face the prospect of having to pay for rising special education costs by reducing funds available for mainstream student education.
- **Eliminate an Unfunded Mandate.** By holding Boards of Education to a more expensive standard than that of 48 other states, Connecticut is imposing an unfunded mandate on its towns. Concurrently, State budgets are reducing the rate at which excess cost reimbursement provided to its schools. In essence, Boards of Education are being hit by a “double whammy” in trying to provide special education services to those in need.
- **This legislation will help moderate the rise in special education costs for both school districts and the state.** By ensuring that parents have an obligation to prove that a school district’s special education program decision is inadequate or unfair, they will be encouraged to pursue a hearing only in cases with true merit. We believe that this will help stabilize costs while not in any way impairing the ability of parents to seek redress when a school district has in fact failed to help a special needs child as required by law.

Interestingly, these rising costs impact the state budget as well. As local special education expenditures increase, the amount of State reimbursement for excess cost reimbursements increase as well. This adds to the already substantial financial challenges our state faces.

In closing, we urge the Education Committee to support House Bill #5425, and we offer our support to all Committee members as they consider how best to move forward.